



State of Wisconsin
2017 - 2018 LEGISLATURE

LRB-4464/1
SWB:emw

2017 SENATE BILL 529

November 8, 2017 - Introduced by Senators CARPENTER and WIRCH, cosponsored by Representatives WEATHERSTON, ZAMARRIPA, BERCEAU, E. BROOKS, CONSIDINE, FIELDS, GENRICH, HESSELBEIN, HORLACHER, KOLSTE, OHNSTAD, POPE, ROHRKASTE, SARGENT, SKOWRONSKI, SUBECK and KULP. Referred to Committee on Public Benefits, Licensing and State-Federal Relations.

1 **AN ACT to amend** 765.08, 765.09 (3) (b), 765.12 (2), 765.23 and 765.30 (3) (a) and
2 (b) of the statutes; **relating to:** marriage license application requirements,
3 issuance, and validity.

Analysis by the Legislative Reference Bureau

This bill makes various changes to the requirements relating to marriage licenses. Under the bill, a county clerk is required to accept certain documentation in lieu of a birth certificate for the purpose of obtaining a marriage license. Under current law, an applicant for a marriage license may present other documentary proof of the information found in the birth certificate, but the clerk has discretion regarding whether or not that documentation is satisfactory. The bill requires the clerk to accept a valid U.S. passport, driver's license, permanent resident card, or naturalization paper as satisfactory documentary proof in lieu of a birth certificate.

This bill also decreases the waiting period for a marriage license from five days to 24 hours. Under the bill, the county clerk retains the discretion to waive the minimum waiting period and charge a fee of up to \$25 to cover any additional processing cost incurred by the county for expediting the license. Finally, the bill extends the period for which a marriage license is valid from 30 days to 60 days.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SENATE BILL 529**SECTION 1**

1 **SECTION 1.** 765.08 of the statutes is amended to read:

2 **765.08 Application for marriage license.** (1) Except as provided in sub.
3 (2), no marriage license may be issued within ~~5 days~~ 24 hours of application for the
4 marriage license.

5 (2) The county clerk may, at his or her discretion, issue a marriage license
6 within less than ~~5 days~~ 24 hours after application if the applicant pays an additional
7 fee of not more than \$25 to cover any increased processing cost incurred by the
8 county. The county clerk shall pay this fee into the county treasury.

9 **SECTION 2.** 765.09 (3) (b) of the statutes is amended to read:

10 765.09 (3) (b) Each applicant for a marriage license shall exhibit to the clerk
11 a certified copy of a birth certificate, and each applicant shall submit a copy of any
12 judgment or death certificate affecting the applicant's marital status. If any
13 applicable ~~birth certificate~~, death certificate or judgment is unobtainable, other
14 satisfactory documentary proof of the requisite facts therein may be presented in lieu
15 of the ~~birth certificate~~, death certificate or judgment. If a birth certificate is
16 unobtainable, a valid U.S. passport, state driver's license, permanent resident card,
17 or naturalization paper may be presented in lieu of the birth certificate and shall be
18 considered satisfactory documentary proof for purposes of this paragraph.
19 Whenever the clerk is not satisfied with the documentary proof presented, he or she
20 shall submit the presented proof to a judge of a court of record in the county of
21 application for an opinion as to its sufficiency.

22 **SECTION 3.** 765.12 (2) of the statutes is amended to read:

23 765.12 (2) The marriage license shall authorize the marriage ceremony to be
24 performed in any county of this state within ~~30~~ 60 days of issuance, excepting that
25 where both parties are nonresidents of the state, the ceremony shall be performed

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1 only in the county in which the marriage license is issued. The officiating person
2 shall determine that the parties presenting themselves to be married are the parties
3 named in the marriage license. If aware of any legal impediment to such marriage,
4 the person shall refuse to perform the ceremony. The issuance of a marriage license
5 shall not be deemed to remove or dispense with any legal disability, impediment or
6 prohibition rendering marriage between the parties illegal, and the marriage license
7 shall contain a statement to that effect.

8 **SECTION 4.** 765.23 of the statutes is amended to read:

9 **765.23 Immaterial irregularities otherwise.** No marriage hereafter
10 contracted shall be void either by reason of the marriage license having been issued
11 by a county clerk not having jurisdiction to issue the same; or by reason of any
12 informality or irregularity of form in the application for the marriage license or in
13 the marriage license itself, or the incompetency of the witnesses to such marriage;
14 or because the marriage may have been solemnized in a county other than the county
15 prescribed in s. 765.12, or more than ~~30~~ 60 days after the date of the marriage license,
16 if the marriage is in other respects lawful and is consummated with the full belief
17 on the part of the persons so married, or either of them, that they have been lawfully
18 joined in marriage. Where a marriage has been celebrated in one of the forms
19 provided for in s. 765.16 (1m), and the parties thereto have immediately thereafter
20 assumed the habit and repute of husband and wife, and having continued the same
21 uninterruptedly thereafter for the period of one year, or until the death of either of
22 them, it shall be deemed that a marriage license has been issued as required by ss.
23 765.05 to 765.24 and 767.803.

24 **SECTION 5.** 765.30 (3) (a) and (b) of the statutes are amended to read:

SENATE BILL 529**SECTION 5**

1 765.30 **(3)** (a) *Penalty for unlawful solemnization of marriage.* Any officiating
2 person who solemnizes a marriage unless the contracting parties have first obtained
3 a proper marriage license as heretofore provided; or unless the parties to such
4 marriage declare that they take each other as husband and wife; or without the
5 presence of 2 competent adult witnesses; or solemnizes a marriage knowing of any
6 legal impediment thereto; or solemnizes a marriage more than ~~30~~ 60 days after the
7 date of the marriage license; or falsely certifies to the date of a marriage solemnized
8 by the officiating person; or solemnizes a marriage in a county other than the county
9 prescribed in s. 765.12.

10 (b) *Penalty for unlawful solemnization by parties.* Where a marriage is
11 solemnized without the presence of an officiating person if the parties to such
12 marriage solemnize the same without the presence of 2 competent adult witnesses
13 or more than ~~30~~ 60 days after the date of the license; or falsely certify to the date of
14 such marriage; or solemnize the same in a county other than the county prescribed
15 in s. 765.12.

16 **(END)**